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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/800,351	03/12/2004	Detlef Becker	P03,0116-01	9892

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SCHIFF HARDIN LLP
Patent Department
6600 Sears Tower
233 South Wacker Drive
Chicago, IL 60606

EXAMINER

KAMAL, SHAHID

ART UNIT	PAPER NUMBER
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3621

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06/24/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/800,351	Applicant(s) BECKER ET AL.	
	Examiner SHAHID KAMAL	Art Unit 3621	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 March 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 26-35 is/are pending in the application.
- 4a) Of the above claim(s) 30-35 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 16-29 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 26-29, drawn to identifier which identifies a content of information, classified in class 705, subclass 59.
 - II. Claim 30, drawn to a plurality of access right, classified in class 705, subclass 51.
 - III. Claims 31-35, drawn to a user group module, classified in class 709, subclass 80.
2. Inventions I, II and III are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct if they do not overlap in scope and are not obvious variants, and if it is shown that at least one subcombination is separately usable. In the instant case, subcombination I, identifier which identifies a content of information. Subcombination II has a plurality of access right. Subcombination III has a user group module. These three subcombinations do not overlap in scope and are not obvious variants of each other. The first subcombination is related to identifier which identifies a content of information, while the second subcombination is directed to a plurality of access right. The first two subcombinations do not overlap because they can exist independently of each other and they have separate structural elements. Similarly, the first and third subcombinations, the second

and third subcombinations can exist independently of each other and they have separate structural elements. See MPEP § 806.05(d).

3. The examiner has required restriction between subcombinations usable together. Where applicant elects a subcombination and claims thereto are subsequently found allowable, any claim(s) depending from or otherwise requiring all the limitations of the allowable subcombination will be examined for patentability in accordance with 37 CFR 1.104. See MPEP § 821.04(a). Applicant is advised that if any claim presented in a continuation or divisional application is anticipated by, or includes all the limitations of, a claim that is allowable in the present application, such claim may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application.

4. Because these inventions are independent or distinct for the reasons given above and there would be a serious burden on the examiner if restriction is not required because the inventions have acquired a separate status in the art in view of their different classification/ sub classification, restriction for examination purposes as indicated is proper.

5. Newly submitted claims (30) and (31-35), directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: The claims are directed to a non-elected invention.

6. Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims (25, 33, 37, 43, 47 and 51) and (26, 34, 38, 41, 42, 44, 48 and 52) and (29, 30, 32, 36, 40, 46, 50 and 54) are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Acknowledgements

7. This is in reply to the amendment filed on March 26, 2008.
8. Claims 1- 25 have been canceled, claims 26- 35 have been added and claims 26- 35 are pending.
9. Claims 30-35 have been withdrawn from consideration as being directed to a non-elected invention.
10. Claims 26-29 have been examined.

Claim Rejections - 35 USC § 102

11. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

12. Claims 26-29 are rejected under 35 U.S.C. 102(e) as anticipated by Marchosky (US Pub. No. 2003/0050803 A1).

Referring to claim 26, Marchosky discloses the following:

- a) generating an electronic data (“medical data”) object identifier which identifies (“identifiers”) a content of information stored (“store-238”) in the data object (“records-112”) (see figure 2A[214], & ¶¶ 0041, 0060 – Patent number identified);
- b) determining an electronic user identifier (“identifiers”) of an operating personnel seeking access to the data object (“records-112”), said user identifier (“identifiers”) being different than said data object identifier (see abstract & ¶¶ 0002, 0004 -determine access);
- c) determining an access right dependent on the data object identifier and also on the user identifier (“identifiers”) (see abstract & ¶¶ 0002, 0004 -determine access); and
- d) allowing the access by the operating personnel to the data object (“records-112”) dependent on the access right (see ¶¶ 0002, 0041, 0075 – allow access records).

Referring to claim 26, Marchosky further discloses providing a plurality of access right categories (see ¶¶ 0002, 0004 -determine access); and determining an association of the user identifier with at least one of the access right categories, the access right being determined dependent on the association of the user identifier with the at least one access right category (see ¶¶ 0002, 0004, 0021-0022, 0086).

Referring to claim 27, Marchosky further discloses providing a plurality of access right categories (see ¶¶ 0002, 0004 -determine access); and determining an association of the data object identifier with at least one of the access right categories, the access right being determined dependent on the association of the data object identifier with the at least one access right category (see abstract, & ¶¶ 0002, 0004, 0021-0022, 0086).

Referring to claim 29, Marchosky further discloses storing medical data referring to a person in the data object (see fig.2C-238, ¶¶ 0007, 0024).

Examiner's Note:

13. The Examiner has pointed out particular references contained in the prior art of record within the body of this action for the convenience of the Applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply. Applicant, in preparing the response, should consider fully the entire reference as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the Examiner.

Response to Arguments

14. Applicant's arguments filed March 26, 2008 have been fully considered but they are not persuasive.

15. Applicant argue that Marchosky does not disclose generating an electronic data object identifier which identifies a content of information stored in the data object; determining an electronic user identifier of an operating personnel seeking access to the data object, said user identifier being different than said data object identifier; determining an access right dependent on the data object identifier and also on the user identifier; and allowing the access by the operating personnel to the data object dependent on the access right.

16. However, the examiner respectfully disagrees that Marchosky disclose generating an electronic data (“medical data”) object identifier which identifies (“identifiers”) a content of information stored (“store-238”) in the data object (“records-112”) (see figure 2A[214], & ¶¶ 0041, 0060 – Patent number identified); determining an electronic user identifier (“identifiers”) of an operating personnel seeking access to the data object (“records-112”), said user identifier (“identifiers”) being different than said data object identifier (see abstract & ¶¶ 0002, 0004 -determine access); determining an access right dependent on the data object identifier and also on the user identifier (“identifiers”) (see abstract & ¶¶ 0002, 0004 -determine access); and allowing the access by the operating personnel to the data object (“records-112”) dependent on the access right (see ¶¶ 0002, 0041, 0075 – allow access records).

Conclusion

17. THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shahid Kamal whose telephone number is (571) 270-3272. The examiner can normally be reached on MONDAY through THURSDAY between the hours of 8:30 AM and 7 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew J. Fischer can be reached on (571) 272-6779. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300 for Regular/After Final Actions and 571-273-6714 for Non-Official/Draft.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business

Art Unit: 3685

Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Shahid Kamal
June 17, 2008

/Jalatee Worjloh/

Primary Examiner, Art Unit 3685